

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 33 OF 1998.

Makalu Trading Ltd. ... Plaintiff.
Versus.
Narvada International & others. ... Defendants.

Shri Ajay Sethi i/by Shri Parashant Parsurampuriah for
the Plaintiff.

None for the Defendant.

CORAM : ABHAY S.OKA, J.

DATED : 5th July, 2007.

P.C.:

1. Heard the learned Counsel appearing for the Plaintiff. Office noting shows that the written statement is not filed though the Defendants are served with the writ of summons. The suit is kept under the caption of "undefended suits for exparte decree."

2. The suit is for recovery of price of goods sold and delivered. According to the case of the Plaintiff certain CRCA sheets were imported by the Plaintiff from Hongkong and on 12th September 1995 the imported goods were sold to the 1st Defendant at high sea sale basis and accordingly a letter was issued to the Collector of Customs.

3. The 1st Defendant filed a Bill of Entry for clearance of the said goods on 20th September 1995. On 13th October 1995 the Plaintiff raised a bill in the sum

of Rs.22,89,439/- upon the 1st Defendant. According to the case of the Plaintiff, after an account confirmation letter was sent by the 1st Defendant on 17th September 1996, a part payment was made in the sum of Rs.2,45,000/-. An Advocate's letter was sent on 8th July 1997 calling upon the 1st Defendant to clear the outstanding amount.

4. The Plaintiff has tendered on record the original documents. The list of documents is marked "X" for identification.

5. Considering the original documents and the averments made in the plaint, this is a fit case for passing a decree under Rule 10 of Order VIII of the Code of Civil Procedure, 1908. However, there is no stipulation regarding the interest in the contract between the parties. Therefore, interest will have to be fixed at 6% per annum. Accordingly, suit is decreed as prayed with modification that the interest will be at the rate of 6% per annum.

Judge.